

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Docket HWCA SCUPA 2018 IM005

Prime Fuel and Mini Mart
1686 East Main St.
Brawley, CA 92227

CONSENT ORDER

Health and Safety Code
Section 25187 and 25404.1.1

EPA I.D. No. CAL000416388

Respondent.

1. INTRODUCTION

1.1. Parties. The State Department of Toxic Substances Control (Department) and Prime Fuel and Mini Mart (Respondent) enter into this Consent Order (Order) and agree as follows:

1.2. Site. Respondent operates a gas station, dispensing gasoline, diesel fuel, and racing fuel at the following site: 1686 East Main Street, Brawley, CA, 92227 (Site).

1.3. Inspection. The Department inspected the Site on December 16, 2016, and December 20, 2017.

1.4. Authorization Status. Respondent has a permit to operate Underground Storage Tanks as well as a certificate to manage hazardous materials and hazardous waste at the Site.

1.5. Jurisdiction. Section 25187 and 25404.1.1 of the Health and Safety Code authorizes the Department to order action necessary to correct violations and assess a penalty when the Department determines that any person has violated specified provisions of the Health and Safety Code or any permit, rule, regulation, standard, or requirement

issued or adopted pursuant thereto.

1.6. Full Settlement. This Order shall constitute full settlement of the violations alleged below. The Parties, and each of them, agree that this Order, and all of the terms contained herein, are fair, reasonable, and in the public interest. By agreeing to this Order, the Department does not waive any right to take other enforcement actions except as specifically provided in this Order.

1.7. Hearing. Respondent waives any and all rights to a hearing in this matter.

1.8. Admissions. Respondent admits the violations as alleged in Section 2 below.

2. VIOLATIONS ALLEGED

2.1. The Department alleges the following violations:

2.1.1. Respondent violated California Code of Regulations, Title 23, Division 3, Chapter 16, Article 3, section 2636(f)(1) and 2638(a), in that on or about December 20, 2017, Respondent failed to properly provide continuous monitoring in order to detect the entry of a hazardous substance from the primary containment into the secondary containment, and capable of detecting water intrusion into the secondary containment. During the Annual Monitoring Certification (AMC) inspection, the monitoring system sensors were unprogrammed and were incapable of detecting any releases of gasoline, diesel fuel, or racing fuel into the secondary containment.

2.1.2. Respondent violated California Code of Regulations, Title 23, Division 3, Chapter 16, Article 3, section 2635(b)(1)(B), Respondent failed to provide for spill containers that have a minimum capacity of five gallons (19 liters). During the AMC inspection conducted on December 16, 2016, the spill containers for two regular gasoline, one diesel fuel, and one racing fuel tanks either leaked when tested or failed

to hold five gallons. During the AMC inspection conducted on December 20, 2017, the spill containers for two regular gasoline, one premium gasoline, and one racing fuel tanks were only capable of holding four gallons.

3. SCHEDULE FOR COMPLIANCE

3.1. Respondent shall comply with the following:

3.1.1. This violation has been corrected to the satisfaction of the Department.

3.1.2. This violation has been corrected to the satisfaction of the Department.

3. 2. Respondent shall make all payments at the time(s) and in accordance with any other conditions set forth in Section 5 (Penalty) below.

4. OTHER PROVISIONS

4.1. Liability. Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Order. Notwithstanding compliance with the terms of this Order, Respondent may be required to take such further actions as are necessary to protect public health or welfare or the environment.

4.2. Penalties for Noncompliance. Failure to comply with the terms of this Order may subject Respondent to costs, penalties and/or damages, as provided by Health and Safety Code, section 25188, and other applicable provisions of law.

4.3. Parties Bound. This Order shall apply to and be binding upon Respondent and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Order.

4.4. Integration. This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this Order.

5. PENALTY

5.1. Respondent shall pay the Department a total penalty of \$2,750. The penalty shall be paid to the Department no later than 30 days from the effective date of this Order.

5.2. Respondent's check(s) for the penalty shall be made payable to the Department of Toxic Substances Control, shall identify the Respondent and Docket Number, as shown in the caption of this case, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check shall be sent to:

Steven Gailey
Senior Environmental Scientist (Spec)
Department
Enforcement and Emergency Response Division
Department of Toxic Substances Control
627 Wake Avenue
El Centro, CA 92243

5.3. If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code, section 25360.1, and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

6. EFFECTIVE DATE

6.1. The effective date of this Order is the date it is signed by the Department.

Dated: 12/07/2018

Signature on File _____
Amal Sarkar
Respondent

Dated: 12/07/2018

Signature on File _____
Steven Gailey
Department